

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	Cr. No. 02-00272-03 DAE
)	
Plaintiff,)	
)	
vs.)	
)	
DWAYNE AHAKUELO,)	
)	
Defendant.)	
_____)	

ORDER REDUCING SENTENCE
PURSUANT TO NEW SENTENCING GUIDELINE AMENDMENT

Pursuant to Local Rule 7.2(d), the Court finds this matter suitable for disposition without a hearing. On February 29, 2008, Defendant Ahakuelo, pro se, filed a letter in this Court requesting that he be considered for a reduction of his sentence under the new sentencing guidelines amendments. This court hereby GRANTS Defendant's request.

Pursuant to 18 U.S.C. § 3582(c), Defendant's sentence of 41 months incarceration imposed on September 30, 2005, is hereby reduced to 33 months incarceration. If Defendant has already served 33 months, Defendant is eligible for immediate release. All other provisions of the sentence imposed on September 30, 2005, remain unaltered.

BACKGROUND AND DISCUSSION

Defendant is currently serving a term of imprisonment for an offense involving cocaine base (crack). Defendant is currently at Mahoney Hale, a residential re-entry center, where he participates in the Transitional Services Component of the Residential Drug Abuse Program. Defendant was sentenced by this Court on September 30, 2005, to a term of 41 months imprisonment, after granting the Government's motion for downward departure. At the time of his original sentencing hearing, Defendant's total offense level was 29 and his criminal history category was I.

The sentencing guideline range Defendant was sentenced under has subsequently been lowered by the United States Sentencing Commission on November 1, 2007. See U.S.S.G. Appendix C, Amdt. 706. The amendment was made retroactive. See Amendment 706.

The new amendment changes Defendant's base offense level to 32 from 34, and with the application of other specific offense characteristics and adjustments as contained in the original Presentence Investigation Report, the new total offense level is 27, as opposed to 29, with the criminal history category remaining at I. This results in a new guideline range of 70 to 87 months.

The Government agrees that even though this Court granted its motion for downward departure, Defendant is eligible for a further reduction of his sentence by retroactive application of Amendment 706 pursuant to § 3582(c) and U.S.S.G. policy statement § 1B1.10. The Government also agrees that Defendant's new sentence of incarceration should be 33 months, and that Defendant is eligible for immediate release from the Bureau of Prison's custody.

CONCLUSION

It is hereby ordered that Defendant's sentence of imprisonment is 33 months, with credit for time served. The remaining terms of the sentence imposed on September 30, 2005, remain in effect, unaltered.

IT IS SO ORDERED:

DATED: Honolulu, Hawaii, March 25, 2008.





David Alan Ezra
United States District Judge

United States of America vs. Dwayne Ahakuelo, Cr. No. 02-00272-03 DAE;
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